

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 273 of 2012

Jasbir Singh S/o. Kafoor Singh, aged about 40 years, R/o. Kanwarpara, Champa, P.S. Champa, District Janjgir Champa (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through P.S. Hirri District Magistrate, Bilaspur District Bilaspur (CG)

---- **Respondent**

For Applicant : Mr. F.S. Khare, Advocate
For Respondent : Mr. Vikram Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 31.03.2021

Case of the prosecution in brief is that FIR (Ex.P-6) was registered in Police Station Hirri on 11.11.2005 by Sadhwa Ram, alleging therein that on the date of incident, a Bus bearing registration no. CG-10 ZB 1396 which was driven by the present applicant in a rush and negligence manner and dashed Tiharuram and Sanjay from the wrong side, as a result of which, both the victims died on the spot. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

2. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections 279 and 304 (A) IPC and sentenced him to undergo RI for three months and pay fine of Rs. 1000/- u/s. 279, RI for two years and to pay fine of Rs. 2000/- u/s. 304(A) IPC plus default stipulations. In appeal, learned lower Appellate Court also affirmed the findings recorded by the Magistrate in *toto* vide judgment impugned dated 31.03.2012 passed in Criminal Appeal No. 26/2012. Hence this revision.

3. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicants have already remained in jail for some time.

4. State counsel however, supports the findings recorded by the both the Courts below.

5. From the statement of the (PW-1),(PW-2),(PW-3),(PW-4) (PW-5), it is clear that the applicant while driving the Bus bearing registration No. CG-10 ZB 1396 in a rash and negligent manner dashed the victims from the wrong side, as a result of which the victims namely Tiharuram and Sanjay, died on the spot. From the statement of eye-witness it is apparent that the accident occurred due to rash and negligent manner driving of the offending vehicle by the applicant. No mechanical fault in the vehicle leading to the accident in question has been attributed by the defence. In the case at hand, the applicant has been found to be guilty of rush

driving the vehicle on a public street and his act unfortunately resulted in loss of a precious human life. The Doctor (PW-10) who conducted autopsy on the body of the deceased as also medically examined the deceased has also supported the case of the prosecution. After the incident, number plate of the said truck was also found from the place of accident and seized under (Ex.P-3).

6. The rash and negligent act of the applicant in driving the offending vehicle which resulted in the horrendous accident claiming the life of two deceased, is established from the testimony of the material collected by the prosecution, and that way both the Courts below do not appear to have gone wrong in holding the applicant guilty as described above, His conviction is therefore, maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicant has already remained in jail for a period of about one month and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 5000/- from that of Rs. 2000/. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

8. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE